

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

TONY STEVEN DANE,

Petitioner,

v.

ACTION NO. 1:21cv854 (AJT/TCB)

**HAROLD W. CLARKE, DIRECTOR,
VIRGINIA DEPARTMENT OF CORRECTIONS,**

Respondent.

MOTION TO DISMISS AND RULE 5 ANSWER

The respondent, by counsel, pursuant to Rule 5, Rules Governing Section 2254 Cases, moves this Court to dismiss petitioner's petition for a writ of habeas corpus.

1. The reasons requiring dismissal are set forth in the accompanying Brief in Support which is incorporated by reference.

2. Each and every allegation not expressly admitted should be taken as denied.

3. The lack of merit of the petition is ascertainable from the record and the applicable law without the need of an evidentiary hearing. See 28 U.S.C. § 2254 (d) and (c).

4. The transcript of Dane's jury trial held on March 19 thru March 23, 2018 and sentencing hearing on July 12, 2028 are available.

5. The respondent has requested the transfer of the state court records.

WHEREFORE, the respondent prays the petition for a writ of habeas corpus will be dismissed without an evidentiary hearing.

Respectfully submitted,

HAROLD W. CLARKE, DIRECTOR,
VIRGINIA DEPARTMENT OF CORRECTIONS

By: /s/ _____
Counsel

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CERTIFICATE OF SERVICE

On September 24, 2021, I electronically filed this Motion to Dismiss and Rule 5 Answer, using the CM/ECF system and I hereby certify that I have mailed the same document to the following CM/ECF non-participant: *pro se* petitioner, Tony Steven Dane, No. 1930791, Haynesville Correctional Center, 421 Barnfield Road, Haynesville, VA 22472.

/s/ _____
Sharon M. Carr
Assistant Attorney General